

MOTION FILED
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NO. 82-2077

THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

CLAIR OLSEN and GUITAR CITY STUDIOS, INC.,
a Utah Corporation,

Petitioners,

vs.

PROGRESSIVE MUSIC SUPPLY, INC., NORLIN MUSIC,
INC., formerly CHICAGO MUSICAL INSTRUMENTS,
and PEAVEY ELECTRONICS CORPORATION,

Respondents.

MOTION OF RESPONDENT PEAVEY ELECTRONICS CORPORATION
FOR DAMAGES PURSUANT TO SUPREME COURT RULE 49.2

Peavey Electronics Corporation, one of the respondents to the petition of Clair Olsen and Guitar City Studios, Inc., for writ of certiorari, respectfully moves the Court to award Peavey Electronics Corporation reasonable damages for the costs incurred by reason of the commencement and pendency of this frivolous proceeding, in the event that the petition for writ of certiorari is denied.

The ground for this motion is that the petition is filed herein without any basis or reason for granting the same, as is more fully shown in this respondent's brief in opposition to such petition. The Court may award damages to the respondent to a frivolous petition for writ of certiorari pursuant to Supreme Court Rule 49.2.

A reasonable sum for such damages incurred in responding to this frivolous petition is \$5,500.00. The foregoing sum represents the total of \$4,000.00 in attorneys' fees and \$1,500.00 in printing costs and other miscellaneous costs.

Dated: July 13, 1983.

Respectfully submitted,

GARDERE & WYNNE

By Curtis L. Frisbie, Jr.
Curtis L. Frisbie, Jr.
Counsel of Record

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ATTORNEYS FOR RESPONDENT
PEAVEY ELECTRONICS CORPORATION

CERTIFICATE OF SERVICE

The undersigned, a member of the bar of the United States Supreme Court, hereby certifies that three true and correct copies of the above and foregoing Motion of Respondent Peavey Electronics Corporation for Damages Pursuant to Supreme Court Rule 49.2 have been forwarded by certified mail, return receipt requested, to Lowell V. Summerhays, Summerhays, Runyan and McClelland, 420 Continental Bank Building, Salt Lake City, Utah 84101; Stephen G. Crockett, Rooker, Larsen, Kimball & Parr, 185 South State Street, Suite 1300, Salt Lake City, Utah 84111; and Bryce E. Roe, Roe & Fowler, 340 East 4th South, Salt Lake City, Utah 84111; on this 15th day of July, 1983.

Curtis L. Frisbie, Jr.
Curtis L. Frisbie, Jr.